

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-CV11829 GAO

ROBERT S. STEPHENS,	)
Plaintiff	)
	)
V.	)
	)
ROBERT MULHERN, individually	)
and as Police Chief of the Town of	)
Groton,	)
PETER S. CUNNINGHAM,	)
individually and as a Selectman for	)
the Town of Groton,	)
THOMAS D. HARTNETT individually	)
and as a Selectman of the Town of	)
Groton,	)
DANN CHAMBERLIN, individually	)
and as a Selectman of the Town	)
of Groton,	)
"JOHN DOE" and	)
THE TOWN OF GROTON,	)
Defendants.	)

**DEFENDANTS, ROBERT MULHERN, PETER S. CUNNINGHAM, THOMAS D. HARTNETT, DANN CHAMBERLIN AND THE TOWN OF GROTON'S MOTION TO DISMISS FOR LACK OF PROSECUTION PER FED. R.C.P. RULE 41(b)**

The defendants, Robert Mulhern, Peter S. Cunningham, Thomas D. Hartnett, Dann Chamberlin and The Town of Groton ("defendants"), hereby move pursuant to Rule 41(b) of the Federal Rules of Civil Procedure ("FRCP") that this Court enter an order dismissing this action for failure of the plaintiff to prosecute or to comply with the FRCP.

In support thereof defendants state, that pursuant to FRCP, they sent their initial disclosure to the plaintiff on October 10, 2004. Plaintiff's counsel missed the first

scheduling conference scheduled for December 21, 2004. The scheduling conference was then rescheduled for May 9, 2005. At that time the court set deadlines for the parties: initial disclosure May 16, 2005; written discovery by July 31, 2005; and, responses to written discovery by September 30, 2005. Counsel for the defendants forwarded written discovery to the plaintiff on June 23, 2005.

On August 19, 2005, defendants filed motion to compel the plaintiff, to fully and completely respond to the Defendants' Request for the Production of Documents to the Plaintiff and First Set of Interrogatories.

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Additionally, defendants' counsel conferred with opposing counsel by letter and telephone, pursuant to the local rules of this Court.

Despite Defendants' counsel requests and motions, the plaintiff has not produced any discovery to date.

It is hereby certified that the movants have, in good faith, conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure, without Court action.

Respectfully submitted,  
DEFENDANTS,  
By their attorneys,

/s/ Jeremy I. Silverfine  
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Jeremy I. Silverfine, BBO#542779  
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Date: October 27, 2005